

§ 105-164.14. Certain refunds authorized.

(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. An "interstate carrier" is a person who is engaged in transporting persons or property in interstate commerce for compensation. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed, and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the taxable items listed in subdivision (1) of this subsection. For purposes of this subdivision, the term "taxable" is based on the imposition of tax on the items and services in the State.
- (3) The sales and use taxes paid in this State on the listed items.
- (4) The number of miles the applicant's motor vehicles, railroad cars, locomotives, and airplanes were operated both inside and outside this State during the refund period. Airplane miles are not in this State if the airplane does not depart or land in this State.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the mileage ratio. The numerator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes in this State during the refund period. The denominator of the mileage ratio is the number of miles the applicant operated all motor vehicles, railroad cars, locomotives, and airplanes both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period.

(a1) Repealed by Session Laws 2010-166, s. 1.17, effective July 1, 2010.

(a2) Utility Companies. – A utility company is allowed a refund, in accordance with this section, of part of the sales and use taxes paid by it on the purchase in this State of railway cars and locomotives and accessories for a railway car or locomotive the utility company operates. The Secretary shall prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise, with respect to which refunds may be claimed and shall prescribe the time within which, following these periods, an application for refund may be made.

An applicant for refund shall furnish the following information and any proof of the information required by the Secretary:

- (1) A list identifying the railway cars, locomotives, and accessories purchased by the applicant inside or outside this State during the refund period.
- (2) The purchase price of the items listed in subdivision (1) of this subsection.
- (3) The sales and use taxes paid in this State on the listed items.

- (4) The number of miles the applicant's railway cars and locomotives were operated both inside and outside this State during the refund period.
- (5) Any other information required by the Secretary.

For each applicant, the Secretary shall compute the amount to be refunded as follows. First, the Secretary shall determine the ratio of the number of miles the applicant operated its railway cars and locomotives in this State during the refund period to the number of miles it operated them both inside and outside this State during the refund period. Second, the Secretary shall determine the applicant's proportional liability for the refund period by multiplying this mileage ratio by the purchase price of the items identified in subdivision (1) of this subsection and then multiplying the resulting product by the tax rate that would have applied to the items if they had all been purchased in this State. Third, the Secretary shall refund to each applicant the excess of the amount of sales and use taxes the applicant paid in this State during the refund period on these items over the applicant's proportional liability for the refund period.

(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for the State's fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.
- (2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
 - a. Community Improvement and Capacity Building.
 - b. Public and Societal Benefit.
 - c. Mutual and Membership Benefit.
- (2a) Volunteer fire departments and volunteer emergency medical services squads that are one or more of the following:
 - a. Exempt from income tax under the Code.
 - b. Financially accountable to a city as defined in G.S. 160A-1, a county, or a group of cities and counties.

- (2b) An organization that is a single member LLC that is disregarded for income tax purposes and satisfies all of the following conditions:
 - a. The owner of the LLC is an organization that is exempt from income tax under section 501(c)(3) of the Code.
 - b. The LLC is a nonprofit entity that would be eligible for an exemption under 501(c)(3) of the Code if it were not disregarded for income tax purposes.
 - c. The LLC is not an organization that would be properly classified in any of the major group areas of the National Taxonomy of Exempt Entities listed in subdivision (2) of this subsection.
- (3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.
- (5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization.

(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

- (1) A county.
- (2) A city as defined in G.S. 160A-1.
- (2a) A consolidated city-county as defined in G.S. 160B-2.
- (2b), (2c) Repealed by Session Laws 2005-276, s. 7.51(a), effective July 1, 2005, and applicable to sales made on or after that date.
- (3) A metropolitan sewerage district or a metropolitan water district in this State.
- (4) A water and sewer authority created under Chapter 162A of the General Statutes.
- (5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
- (6) A sanitary district.
- (7) A regional solid waste management authority created pursuant to G.S. 153A-421.
- (8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
- (9) A district health department, or a public health authority created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes.

- (10) A regional council of governments created pursuant to G.S. 160A-470.
- (11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
- (12) A regional planning commission created pursuant to G.S. 153A-391.
- (13) A regional sports authority created pursuant to G.S. 160A-479.
- (14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.
- (14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.
- (15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.
- (16) A local airport authority that was created pursuant to a local act of the General Assembly.
- (17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to (i) provide fire protection, emergency services, or police protection or (ii) operate a public broadcasting television station.
- (18) Repealed by Session Laws 2001-474, s. 7, effective November 29, 2001.
- (19) Repealed by Session Laws 2001-474, s. 7, effective November 29, 2001.
- (20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds.
- (21) The University of North Carolina Health Care System.
- (22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes.
- (23) A special district created under Article 43 of this Chapter.
- (24) A public library created pursuant to an act of the General Assembly or established pursuant to G.S. 153A-270.
- (25) A soil and water conservation district organized under Chapter 139 of the General Statutes.
- (26) A district confinement facility created pursuant to G.S. 153A-219, including a local act modifying G.S. 153A-219.

(d) Late Applications. – Refunds applied for more than three years after the due date are barred.

(d1) Alcoholic Beverages. – The refunds authorized by this section do not apply to purchases of alcoholic beverages, as defined in G.S. 18B-101.

(d2) A city subject to the provisions of G.S. 160A-340.5 is not allowed a refund of sales and use taxes paid by it under this Article for purchases related to the provision of communications service as defined in Article 16A of Chapter 160A of the General Statutes.

(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to a State agency that is ineligible for a sales and use tax exemption number under G.S. 105-164.29A(a).

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

- (1) The date the property was purchased.
- (2) The type of property purchased.
- (3) The project for which the property was used.
- (4) If the property was purchased in this State, the county in which it was purchased.
- (5) If the property was not purchased in this State, the county in which the property was used.
- (6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund.

- (f) through (h) Repealed by Session Laws 2010-166, s. 1.17, effective July 1, 2010.
- (i) Repealed by Session Laws 1999-360, s. 5, for taxes paid on or after January 1, 2008.
- (j) through (o) Repealed by Session Laws 2010-166, s. 1.17, effective July 1, 2010.
- (p) Not an Overpayment. Taxes for which a refund is allowed under this section are not an overpayment of tax and do not accrue interest as provided in G.S. 105-241.21. (1957, c. 1340, s. 5; 1961, c. 826, s. 2; 1963, cc. 169, 1134; 1965, c. 1006; 1967, c. 1110, s. 6; 1969, c. 1298, s. 1; 1971, cc. 89, 286; 1973, c. 476, s. 193; 1977, c. 895, s. 1; 1979, c. 47; c. 801, ss. 77, 79-82; 1983, c. 594, s. 1; c. 891, s. 13; 1983 (Reg. Sess., 1984), c. 1097, s. 7; 1985, cc. 431, 523; 1985 (Reg. Sess., 1986), c. 863, s. 5; 1987, c. 557, ss. 8, 9; c. 850, s. 16; 1987 (Reg. Sess., 1988), c. 1044, s. 5; 1989, c. 168, s. 5; c. 251; c. 780, s. 1.1; 1989 (Reg. Sess., 1990), c. 936, s. 4; 1991, c. 356, s. 1; c. 689, s. 190.1(b); 1991 (Reg. Sess., 1992), c. 814, s. 1; c. 917, s. 1; c. 1030, s. 25; 1995, c. 17, s. 8; c. 21, s. 1; c. 458, s. 7; c. 461, s. 13; c. 472, s. 1; 1995 (Reg. Sess., 1996), c. 646, s. 6; 1996, 2nd Ex. Sess., c. 18, s. 15.7(a); 1997-340, s. 1; 1997-393, s. 2; 1997-423, s. 1; 1997-426, s. 5; 1997-502, s. 3; 1998-55, ss. 16, 17; 1998-98, s. 15; 1998-212, ss. 29A.4(a), 29A.14(i), 29A.18(b); 1999-360, ss. 4, 5(a), (b), 9; 1999-438, s. 14; 2000-56, s. 9; 2000-140, s. 92.A(c); 2001-414, s. 1; 2001-474, s. 7; 2003-416, ss. 18(b)-(e), 23; 2003-431, ss. 2, 3; 2003-435, 2nd Ex. Sess., s. 4.1; 2004-110, s. 5.1; 2004-124, s. 32B.1; 2004-170, s. 21(a); 2004-204, 1st Ex. Sess., s. 3; 2005-276, ss. 7.27(a), 7.51(a), 33.12; 2005-429, s. 2.12; 2005-435, ss. 32(a), 33(a)-(c), 61, 61.1; 2006-33, s. 6; 2006-66, ss. 24.6(a), (b), (c), 24.10(b), 24.13(b), 24A.1(a); 2006-162, ss. 9, 27; 2006-168, s. 3.1; 2006-252, ss. 2.2, 2.3; 2007-323, ss. 31.10(a), 31.20(b), 31.23(d); 2007-345, s. 14.6(a); 2007-491, s. 44(1)a; 2008-107, ss. 28.22(a), 28.23(a), (b); 2008-118, s. 3.10(a); 2008-154, s. 1; 2009-233, s. 1; 2009-445, ss. 13, 14(a); 2009-527, s. 2(d); 2009-550, s. 4.1; 2010-31, s. 31.5(c), (d); 2010-91, s. 4; 2010-95, s. 4(a); 2010-166, s. 1.17; 2011-84, s. 1(b); 2011-330, s. 26(a); 2012-79, s. 2.11; 2013-316, s. 3.4(b); 2013-414, ss. 12, 42(a), 54(a); 2014-3, s. 8.2(a); 2014-20, s. 1; 2015-235, s. 1; 2016-5, s. 3.22(b); 2017-204, ss. 2.7(a), 2.9(b); 2018-5, s. 38.5(l).)